

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 RUI KAI FANG,) Case No.: 2:11-cv-1890-GMN-PAL
4)
5 Plaintiff,) ORDER
6 vs.)
7 BAC HOME LOANS SERVICING, LP, et al.)
8 Defendants.)
9

10 Before the Court is Defendants Bank of America, N.A. as successor by merger to BAC
11 Home Loans Servicing, L.P. (BANA), Merscorp, Inc. and Mortgage Electronic Registration
12 System's (MERS) Motion to Dismiss under Fed. R. Civ. P. 12(b)(6) (ECF No. 8). Plaintiff Rui
13 Kai Fang did not file a response.

14 Local Rule 7-2(d) states that "[t]he failure of an opposing party to file points and
15 authorities in response to any motion shall constitute a consent to the granting of the motion."
16 As the Ninth Circuit has held, "[f]ailure to follow a district court's local rules is a proper ground
17 for dismissal." *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir.1995); *see, e.g., Roberts v. United*
18 *States of America*, 01-cv-1230-RLH-LRL, 2002 WL 1770930 (D. Nev. June 13, 2002).
19 However, before dismissing a case for failing to follow local rules or for failure to prosecute, the
20 district court must weigh five factors: "(1) the public's interest in expeditious resolution of
21 litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to
22 defendants/respondents; (4) the availability of less drastic sanctions; and (5) the public policy
23 favoring disposition of cases on their merits." *Pagtalunan v. Galaza*, 291 F.3d 639, 642 (9th
24 Cir.2002).

25 Having considered the five factors this Court determines that this case should be

1 dismissed.

2 **IT IS HEREBY ORDERED** that Defendants Bank of America, N.A. as successor by
3 merger to BAC Home Loans Servicing, L.P., Merscorp, Inc. and Mortgage Electronic
4 Registration System's Motion to Dismiss (ECF No. 8) is hereby **GRANTED**. Plaintiffs'
5 Complaint is **DISMISSED without prejudice**.

6 DATED this 18th day of January, 2012.

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10 Gloria M. Navarro
11 United States District Judge
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